

ESTTA Tracking number: **ESTTA501681**Filing date: **10/23/2012**IN THE UNITED STATES PATENT AND TRADEMARK OFFICE  
BEFORE THE TRADEMARK TRIAL AND APPEAL BOARD**Petition for Cancellation**

Notice is hereby given that the following party requests to cancel indicated registration.

**Petitioner Information**

Name	Equinox Holdings, Inc.		
Entity	Corporation	Citizenship	Delaware
Address	895 Broadway, 3rd Flr New York, NY 10003 UNITED STATES		
Attorney information	Arnie Herz, Esq. Arnie Herz, Attorney at Law 14 Vanderventer Ave., Ste. 255 Port Washington, NY 11050 UNITED STATES arnie@arnieherz.com Phone:516-767-0800		

**Registrations Subject to Cancellation**

Registration No	3750939	Registration date	02/23/2010
Registrant	Equinox International Corporation 1211 Town Center Drive Las Vegas, NV 891346352 UNITED STATES		

**Goods/Services Subject to Cancellation**

Class 003. First Use: 1992/01/01 First Use In Commerce: 1992/01/01 All goods and services in the class are cancelled, namely: environmentally-safe cosmetic and skin care products, namely, lathering facial cleanser, cream cleanser, mineral polish, skin moisturizer, hair shampoo, hair conditioner, hair and scalp treatment cream, styling gel, sculpting mousse, finishing hair spray, shaving gel, breath spray and fresheners distributed directly to the consumer via a multi-level marketing program
Class 005. First Use: 1992/01/01 First Use In Commerce: 1992/01/01 All goods and services in the class are cancelled, namely: environmentally-safe dietary and nutritional food supplements distributed directly to the consumer via a multi-level marketing program
Class 011. First Use: 1992/01/01 First Use In Commerce: 1992/01/01 All goods and services in the class are cancelled, namely: environmentally-safe water and air filtering units for domestic and commercial use distributed directly to the consumer via a multi-level marketing program

**Grounds for Cancellation**

Abandonment	Trademark Act section 14		
Registration No	3949624	Registration date	04/26/2011
Registrant	Equinox International Corporation 6753 W. Charleston Boulevard Las Vegas, NV 89102		

	UNITED STATES
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## Goods/Services Subject to Cancellation

Class 005. First Use: 1994/03/00 First Use In Commerce: 1994/03/00

All goods and services in the class are cancelled, namely: dietary and nutritional food supplements, herb supplements, mineral supplements, anti-oxidant supplements, herbal weight control supplements, vitamins and herbal relaxation supplements

## Grounds for Cancellation

Abandonment	Trademark Act section 14
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Attachments	Petition to Cancel Oct 23 2012.pdf ( 5 pages )(100766 bytes )
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## Certificate of Service

The undersigned hereby certifies that a copy of this paper has been served upon all parties, at their address record by First Class Mail on this date.

Signature	//Arnie Herz//
Name	Arnie Herz, Esq.
Date	10/23/2012

**IN THE UNITED STATES PATENT AND TRADEMARK OFFICE  
BEFORE THE TRADEMARK TRIAL AND APPEAL BOARD**

EQUINOX HOLDINGS, INC.

Petitioner,

v.

EQUINOX INTERNATIONAL CORPORATION,

Registrant.

CANCELLATION NO.

REG. NO. 3,750,939 and  
REG. NO. 3,949,624

**PETITION TO CANCEL**

Petitioner, Equinox Holdings, Inc. (“Equinox”), a Delaware corporation with a principal place of business at 895 Broadway, 3<sup>rd</sup> Floor, New York, New York 10003, through its undersigned attorney, believes it is being damaged by Registration No. 3,750,939 and Registration No. 3,949,624, both owned by Equinox International Corporation (“Equinox International”), a Nevada corporation with addresses listed on file with the United State Patent and Trademark Office of 1211 Town Center Drive, Las Vegas, Nevada 89134 and 6753 W. Charleston Boulevard, Las Vegas, NEVADA 89102 and hereby files this Petition to Cancel the same.

The grounds for cancellation are as follows:

1. On May 24, 2007, Equinox filed Application Serial No. 77189903 and Application Serial No. 77189884, respectively, for the marks EQUINOX (and design) and EQUINOX (word mark). Both applications cover the following goods and services:

“On-line retail store services and retail store services featuring fitness apparel, swimwear, swim accessories, yoga accessories, music, audio books, magazines, journals, books, mp3 players, headphones, all purpose athletic bags, backpacks, footwear, hats, hair bands, belts, gloves, jewelry, heart rate monitors, cosmetics, home goods, travel products, scented candles, key locks, vitamin and nutritional supplements, and exercise equipment” in class 35

2. Office Actions issued on October 18, 2012 for both applications under Section 2(d) of the Trademark Act on the basis of a likelihood of confusion with the marks in U.S. Registration Numbers 3750939 and 3949624 owned by Equinox International.
3. The subject registration for EQUINOX (Registration # 3750939) issued on February 23, 2010 to Equinox International.
4. The subject registration for EQUINOX MASTER FORMULAS (Registration # 3949624) issued on April 26, 2011 to Equinox International.
5. Equinox attempted to locate evidence of Equinox International’s current use of the marks EQUINOX and EQUINOX MASTER FORMULAS, but has been unable to find any evidence that either of the marks is in use.
6. According to news reports, Equinox International was shut down under a legal settlement with the US Federal Trade Commission on or about April 21, 2000. The Nevada Secretary of State database lists Equinox International status as “Permanently Revoked”.
7. Upon information and belief, Equinox International is not making any current use of the marks EQUINOX or EQUINOX MASTER FORMULAS in connection with the services covered by the Registrations.

8. Upon information and belief, Equinox International is not currently providing any goods or services in commerce under the EQUINOX or EQUINOX MASTER FORMULAS marks. Specifically, upon information and belief, Equinox International does not provide any of the goods and services listed in its registrations, as follows: “dietary and nutritional food supplements, herb supplements, mineral supplements, anti-oxidant supplements, herbal weight control supplements, vitamins and herbal relaxation supplements, environmentally-safe cosmetic and skin care products, namely, lathering facial cleanser, cream cleanser, mineral polish, skin moisturizer, hair shampoo, hair conditioner, hair and scalp treatment cream, styling gel, sculpting mousse, finishing hair spray, shaving gel, breath spray, fresheners distributed directly to the consumer via a multi-level marketing program, environmentally-safe dietary and nutritional food supplements distributed directly to the consumer via a multi-level marketing program, or environmentally-safe water and air filtering units for domestic and commercial use distributed directly to the consumer via a multi-level marketing program.”
9. Upon information and belief, Equinox International has not provided any of the aforementioned goods and services for over 12 years.
10. Upon information and belief, Equinox International has not used the EQUINOX or EQUINOX MASTER FORMULAS marks on the services covered by the Registrations for at least a period of three (3) consecutive years.
11. Upon information and belief, Equinox International discontinued its use of the EQUINOX and EQUINOX MASTER FORMULAS marks with intent not to resume such use.

12. Upon information and belief, Reg. No. 3,750,939 for the mark EQUINOX and Reg. No. 3,949,624 for the mark EQUINOX MASTER FORMULAS have been abandoned by Equinox International and are subject to cancellation pursuant to Section 14(3) of the Trademark Act, 15 U.S.C. § 1064(3).
13. The continued registration of EQUINOX and EQUINOX MASTER FORMULAS have and will continue to damage Equinox in that they will prevent Equinox from receiving a registration for its marks EQUINOX (and design) and EQUINOX (word mark), will place a cloud upon Equinox's use of said marks.

WHEREFORE, Equinox respectfully requests that this Cancellation be sustained and that Registration No. 3,750,939 and Registration No. 3,949,624 be cancelled in its entirety.

Date: October 23, 2012

Respectfully submitted,

Arnie Herz, Attorney at Law



By: \_\_\_\_\_

Arnie Herz  
14 Vanderventer Avenue, Suite 255  
Port Washington, New York 11050  
Tel: (516) 767-0800

*Attorney for Equinox Holdings Inc.*

### **CERTIFICATE OF SERVICE**

The undersigned hereby certifies that on October 23, 2012, a copy of the foregoing PETITION TO CANCEL was served by first class mail, postage prepaid, upon Equinox International Corporation at the address set forth in the records of the USPTO as follows:

Equinox International Corporation  
6753 W. Charleston Boulevard  
Las Vegas, NEVADA 89102

And

Equinox International Corporation  
1211 Town Center Drive  
Las Vegas, NEVADA 89134-6352



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Arnie Herz